

MINUTES

SOLID AND HAZARDOUS WASTE CONTROL BOARD MEETING

June 12, 2003

Board Members Present:

Craig Anderson, Vice-Chair; Dianne Nielson; John Newman; Cullen Battle; Lowell Peterson; Scott Widmer; Ken Alkema; Michael D. Brehm; Carlton Christensen.

Staff Members Present:

Dennis R. Downs, Executive Secretary; Brad T. Johnson, UST Executive Secretary; Marilyn Ratcliffe; Candace Bleazard; Cheryl Prawl; Dale Marx; Scott Anderson; Rusty Lundberg; Ed Costomiris; John Waldrip; Dale Marx; Otis Willoughby; George Lukes; Rocky Stonestreet; Sam Schroyer.

Others Present:

Raymond Wixom, Richard Rathbun, Tom Kurkky, Kris Snow, Joe Majestic, Mike Parker, Dan Shrum, Jason Groenewold, Rex Funk, Clint Warby, Jim Holtkamp, Tim Orton, Wayne A. Christensen, Michael A. Keene.

- I. The meeting was called to order at 1:00 p.m.
- II. Minutes for the May 8, 2003 Board meeting

It was moved by John Newman and seconded by Lowell Peterson, and unanimously carried that the May 8, 2003 Board meeting minutes be approved with the following corrections: Page 2 motion, should read, "It was moved by John Newman and seconded by Scott Widmer, and unanimously carried that approval be given for the appointment of Brad Johnson as the UST Executive Secretary to the Utah Solid and Hazardous Waste Control Board"; Page 9, The next meeting will be held on June 12, 2003.

Scott Widmer referred to page 4, 2nd to last paragraph, last sentence. He felt that it should read, "so the Board will be better informed of the spectrum of issues and be better prepared to make a decision on the settlement process." Fred Nelson will be addressing the Board again and will clarify his intent.

Mr. Downs received a few responses the week prior to the Board meeting on corrections to the minutes that were more typographical in nature. These recommendations were received by e-mail so that corrections could be made in advance, which turned out to be helpful. If they are substantive issues they should be discussed in the meeting, but if small errors are made the Board can e-mail them to Mr. Downs or Marilyn, if they wish.

- III. Recognition given to Wayne Evans

Wayne Evans has participated with the Used Oil Program for many years, since the inception of the Used Oil Program. Cheryl Prawl is the section manager of this program. DSHW contracted with Wayne to do public relations work for this program and get the word out to the public. Wayne did a tremendous job of helping to establish steering committees throughout the state,

providing audio-visual material, i.e., billboards, pamphlets, television/radio advertisements, and films. He established a program for fourth graders in the State where the teacher is mailed a packet to be used as resource for teaching the importance of recycling to their students. Wayne has been more than a contractor. He has gone the extra mile and has expended much of his own time because he believed in the program and wanted it to be successful.

Mr. Downs expressed appreciation for all that Mr. Evans was able to accomplish and, as a token of appreciation, gave him a plaque for recognition of his services to the Used Oil Program.

IV. Underground Storage Tank Update - Brad Johnson

Underground Storage Tanks (UST) General Statistics:

PROGRAM	April	May	Difference from April
Number of current tanks with a Certificate of Compliance	4,008	4,001	(7)
Number of Tanks with a Certificate of Compliance on the PST Fund	3,574	3,569	(5)
Total Number of Tanks Regulated	4,181	4,171	(10)
*Total Number of LUST sites closed to date	3,574	3,588	14
Total PST sites with claims or expected claims	468	477	9
Open + Closed Grand Total	\$89,630,601.37	\$94,227,702.39	\$4,597,101.02
PST Fund Balance	(\$70,112,640.00)	(\$70,600,042.00)	(\$487,402.00)
PST Assets Total	\$12,116,396.09	\$11,652,062.95	(\$464,333.14)
Loan Fund – Total Loans Made to Date*	68	68	0
Total Amount Loaned to Date	\$1,847,797.60	\$1,847,797.60	0

Mr. Johnson stated that he is looking for feedback regarding the monthly general statistics information that is presented to the board, i.e., is there any other statistical information that could be provided that would be helpful to the Board?

It was recommended that a detailed description of the general statistics information be presented at a future meeting.

The Underground Storage Tank Amendment Act will become effective July 1, 2003. This Act will increase the environmental assurance fee of ¼¢ per gallon on the first sale or use of petroleum products to ½¢ per gallon.

The local health department contracts are complete. Eight out of the twelve health departments have signed contracts to perform/assist with tank oversight work throughout the state for fiscal year 2004.

- V. Proposed changes to the Utah Solid and Hazardous Waste Rules (R325-1, 2, 3, 7, 8, 13, 14, and 50) - Rusty Lundberg

These proposed changes adopt regulations that have been promulgated by EPA for the Hazardous Waste Program. EPA has reviewed the changes proposed by DSHW and has provided comments. These comments have been incorporated into the proposal.

Scott Widmer expressed appreciation for the new "Executive Summary" format and stated that it should be helpful to the Board.

****It was moved by Scott Widmer and seconded by Ken Alkema, and unanimously carried that proposed changes to the Utah Solid and Hazardous Waste Rules, R325-1, 2, 3, 7, 8, 13, 14, and 50, be approved to begin the formal rulemaking process and public comment period of 30-days.**

- VI. Planning/Used Oil - Cheryl Prawl

Final adoption of proposed Stipulation and Consent Order (SCO) between the board and Golden Eagle Oil Refinery, Inc.

Two Notices of Violation have been issued to Golden Eagle Oil Refinery as a result of inspections between September and December 1999, an inspection on August 28, 2003, and subsequent information received thereafter. This proposed SCO will resolve both of the Notices of Violation.

No comments were received during the 30-day public comment period that ended June 2, 2003.

Craig Anderson asked concerning the current compliance status of Golden Eagle. Ms. Prawl responded that members of her Used Oil staff were on-site at Golden Eagle on February 1, 2003. They were in compliance with all rules and regulations and within the boundary of their permits at that time.

****It was moved by John Newman and seconded by Michael Brehm, and unanimously carried that the Stipulation and Consent Order for Golden Eagle Oil Refinery, Inc. be approved.**

- VII. Commercial/Federal Facilities

- A. Letter to Judy Lever, SHW Control Board Chair, from the Sierra Club commenting on Envirocare's request for variances for treatment processes.

The issue has been raised from the Sierra Club, specifically Cindy King, regarding the process for submitting public comments through the staff, and also suggesting that comments should be submitted to the Board and that perhaps the Board should respond to comments as well as the staff. This issue has been referred to the Attorney General's Office for comment.

Richard Rathbun, Assistant Attorney General, stated that the Board did not serve in that function under the powers of the Board. It is the role of the Division to administer the program, make comments, and respond to comments. Mr. Rathbun had reviewed Cindy King's comments and

felt that DSHW was prepared to inform the Board of the public comments and how they were handled.

Craig Anderson observed that in the past, the Board has given responsibility to the DSHW staff to review and respond to comments that are submitted. He suggested that the Board continue to follow that process, based on Mr. Rathbun's review and recommendation.

Scott Widmer agreed with Mr. Anderson, and pointed out that he didn't want to spend any of the State's legal sources in that regard. To him, it seemed like a straightforward interpretation. Mr. Widmer asked if the staff could develop some kind of response to Ms. King informing her of how DSHW will handle this issue.

John Newman concurred with these comments and suggested that Judy Lever be the one to sign the response because the letter was addressed to her.

B. Stipulation and Consent Order (SCO) between the Board and Clean Harbor Grassy Mountain Facility, LLC - Ed Costomiris

This SCO is a resolution of a Notice of Violation that was issued to the Clean Harbors Grassy Mountain facility on January 17, 2003, in response to observations made during inspections at the facility. There were two violations:

- The Permit requires that the facility minimize the possibility of fires that could threaten human health or the environment. On May 14, 2002, a fire began in a hazardous waste cell at the facility on a load of waste that was microencapsulated.

On June 14, 2002, a second fire occurred because the personnel at the facility failed to implement the plan that was instituted following the first fire.

- There was a failure to have hazardous waste generators certify that the samples provided to the Grassy Mountain Facility were representative of the waste stream. The Permit requires that generators, who send samples of hazardous waste to the Grassy Mountain Facility, certify that the sample is representative of the waste stream.

The Stipulation and Consent Order includes a \$4,108.00 penalty, as determined in accordance with the Utah Solid and Hazardous Waste Control Board Penalty Policy.

A public comment period to receive input on the proposed Stipulation and Consent Order ended on June 5, 2003. No comments were received.

****It was moved by John Newman and seconded by Scott Widmer, and majority carried that the Stipulation and Consent Order between the Board and Grassy Mountain Facility be approved. Lowell Peterson abstained from the discussion and the vote due to conflict of interest.**

C. Envirocare's request for a site-specific treatment variance for P120 (vanadium pentoxide). Otis Willoughby

This variance deals with some material that was generated at a University where they were testing a vitrification process, making waste material into a glass as a treatment. All of the other waste contaminants in the waste stream were characteristic based. This material was tested and it was non-detect for the vanadium pentoxide. Envirocare has requested that they be able to directly

dispose of that material. Division staff asked that Envirocare encapsulate the 30 gallons of glass in a cocoon of low-density polyethylene, which will further reduce any possibility of any leaching.

The public comment period ended on June 6, 2003. There were some adverse comments made which were given consideration and responses given to the commentor. The Board was given copies of these questions and the DSHW staff's response.

****It was moved by Carlton Christensen and seconded by Scott Widner, and majority carried that Envirocare's request for a site-specific treatment variance for P120 be approved. Kenneth Alkema and Cullen Battle abstained from the discussion and the vote due to conflict of interest.**

- D. Envirocare's request for a site-specific treatment variance for U103 (dimethyl sulfate) and U213 (tetrahydrofuran). Otis Willoughby

Envirocare proposes to receive what is comprised of large pieces of piping and storage tank components from a generator that contains waste codes U103 and U213. These tanks came in contact with approximately 50ml amounts of these waste streams. Envirocare is requesting that this material receive no further treatment, and that these tanks and piping be placed directly in the mixed waste disposal cell. Envirocare will encapsulate this in a concrete material so that the requirements for disposal will be met.

The 30-day public notice ended May 29, 2003. One comment was received from the Sierra Club requesting DSHW to deny receipt of the dimethyl sulfate and tetrahydrofuran. Both of these chemicals are currently allowed by Envirocare's permit.

****It was moved by Scott Widmer and seconded by Carlton Christensen, and majority carried that Envirocare's request for a site-specific treatment variance for U103 and U213 be approved. Ken Alkema abstained from the discussion and the vote due to conflict of interest.**

- E. Envirocare's request for a variance from the 250 kilogram/day quantity limits for a treatability study. George Lukes

Envirocare is requesting a variance from R315-2-4-(f), which addresses samples for treatability studies at laboratories or testing facilities. This is for vacuum thermal desorption. On March 6, the Board approved a similar variance for testing vacuum thermal desorption, which included a 30-day approval. Because of mechanical problems, they were only able to process for about five days. There were a total of 170 drums that were received for the studies. Envirocare processed 44 of those drums and have 126 left to process. They asked the Board for approval to process 8,000 kg per day and to have the treatability study for a period of time no longer than one year, in order to finish their studies.

A public hearing was held on May 13, 2003. Due to a typographical error in the hearing notice, and so an additional public hearing was held on May 15, 2003. The 30-day public comment period ended on May 29, 2003. Comments were received and addressed.

John Newman inquired as to the mechanical problems that were experienced. Mr. Lukes informed the Board that a seal on the feed hopper popped up and released some of the feed that was inside. A new seal was installed and approved to above what the maximum pressure can be so that this will not happen again. They also had a problem with the vacuum pump, which had

difficulty circulating the oil when under vacuum pressure. There is a filter that filters out the dust, which is radioactive contaminated, and due to the temperature dryer getting hotter than the manufacturer of the filter had recommended, it cracked. This part will be replaced. Mr. Lukes informed the Board that these are typical problems that happen with start up of process equipment.

Jason Groenewold was in the audience and asked what the results were of the 44 drums that were tested. One of the results is that it separated the volatiles from the waste matrix; the other result was that the exhaust gas had a removal efficiency of 99.99%.

Mr. Lukes informed the board that Envirocare would like to be able to treat the remaining 126 drums. He went on to explain that they would have to meet the one year time limit according to R315-2-4-(f), but they would not exceed 8,000 kg per day, which is roughly 17,600 lbs.

Dianne Nielson asked for further clarification on how long the variance would be extended. Mr. Lukes felt that the intent of Envirocare was to be able to treat the other 126 drums, but not to exceed the allowed time frame of one year.

Michael Brehm observed that, if the full year is used and distributed evenly, that would not likely be defined as a continuous operation. He asked that at some point between now and a year from now, the Board would want to hear a report that the operation is completed.

Dianne Nielson asked if the remaining 126 drums are presently in Envirocare's possession. Mr. Lukes answered in the affirmative. Ms. Nielson went on to state that with the time frame limitation, Envirocare should make sure the equipment is ready to be operational. She asked if the Division and Envirocare could establish a schedule where Envirocare would complete these tests in a period shorter than a year. Mr. Lukes noted that that would be Envirocare's intent. Ms. Nielson asked if the Division would establish a schedule with Envirocare for completing this testing and demonstrate both the capability of the equipment and the capability of the equipment to operate continuously.

Scott Widmer was in favor of a schedule that would develop an operating plan and hold Envirocare within a reasonable timeframe.

Mr. Lukes agreed to give an update and a schedule for treatment of the remaining 126 drums at the next Board meeting.

****It was moved by Scott Widmer and seconded by John Newman, and majority ruled that approval for this variance request be granted to treat up to 8,000 kg of waste per day subject to the condition that the treatment be accomplished over a period of 30 operational days, and that Envirocare report to the Board next month the status of this project and plan to report on a monthly basis until completed. Ken Alkema abstained from the vote due to conflict of interest.**

VIII. TOCDF update - Marty Gray

As of Wednesday, June 11, 2003, TOCDF has processed 33% of the 55 VX rockets that are in storage at the Deseret Chemical Depot. The amount of VX agent that has been processed is 10 tons. Also, recently a notice was sent out that the trial burn for the deactivation furnace is expected to begin on June 23rd.

The Board was reminded that the Army has offered to conduct a tour of the facility for Board members. In order to do that the Army wanted an idea of the availability of the Board members on various dates and times. Board members were asked if there was any interest in participating in a tour of TOCDF. Michael Brehm, Carlton Christensen, and Craig Anderson were interested. Originally the date for the tour was planned for June 23, 2003, but a few days after the Board meeting TOCDF had to cancel that date, and through telephone calls and e-mails it was decided that July 21, 2003, would work for those interested. Board members who were not in attendance at the Board meeting were also informed of this tour.

IX. Other

A. Copies of the Rules

During the May Board meeting there was a request for updated copies of the Administrative Rules for Hazardous Waste, and the Solid Waste Management Rules. The Board was given a copy of the updated rules, as well as a current organizational chart for DSHW and DERR.

B. July and August Board meetings

The July 10th Board meeting was cancelled. There were only a few items that needed to be addressed, and they could be carried over for the August Board meeting. Carlton Christensen suggested that if there is information that the Board should know about before the August meeting, it could be sent in the mail.

The August Board meeting will be held in Cedar City at the City Offices, 10 N. Main, in the City Council Chambers room, on August 14, 2003 at 11:00 a.m.

C. Conflict of Interest disclosure requirements - Dianne Nielson, Ph.D., DEQ
Executive Director

The Board was given a copy of a letter dated June 5, 2003, from Fred Nielson, AG's Office, which discusses the Ethics Act and Conflict of Interest. Copies of the Act itself, and a disclosure statement were also given to Board members.

The procedure in the Act requires that if there is a conflict that is disclosed, that information should be filed with the Attorney General's Office. It is expected that members of the Board, who have interests in facilities which are regulated by the Division, are going to have a conflict in certain areas, i.e., if you are the industry representative who was appointed to the Board based on statutory requirements, and if the Board were discussing a Consent Order with a particular industry for which you are employed, you would recuse yourself. We would also want to make sure that information is available on a disclosure form. This information would be available to the public.

Dr. Nielson asked the Board members to fill out the disclosure form whether or not they have a conflict. She reminded them not to sign until they were before a notary. There are notaries within the Department that would notarize the information. This form should then be given to Dennis Downs.

X. The next Board meeting will be held August 14, 2003, in Cedar City, Utah, in the City Council Chambers room at 11:00 a.m.

XI. Adjourned at 2:56 p.m